

## **Subpart 2. Applicability of Article.**

### **§ 25-9-109. Scope.**

(a) General scope of Article. – Except as otherwise provided in subsections (c) and (d) of this section, this Article applies to:

- (1) A transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;
- (2) An agricultural lien;
- (3) A sale of accounts, chattel paper, payment intangibles, or promissory notes;
- (4) A consignment;
- (5) A security interest arising under G.S. 25-2-401, 25-2-505, 25-2-711(3), or 25-2A-508(5), as provided in G.S. 25-9-110; and
- (6) A security interest arising under G.S. 25-4-208 or G.S. 25-5-118.

(b) Security interest in secured obligation. – The application of this Article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this Article does not apply.

(c) Extent to which Article does not apply. – This Article does not apply to the extent that:

- (1) A statute, regulation, or treaty of the United States preempts this Article;
- (2) Repealed by Session Laws 2001-218, s. 2.
- (3) A statute of another state, a foreign country, or a governmental unit of another state or a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority, or enforcement of a security interest created by the state, country, or governmental unit; or
- (4) The rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under G.S. 25-5-114.

(d) Inapplicability of Article. – This Article does not apply to:

- (1) A landlord's lien, other than an agricultural lien;
- (2) A lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but G.S. 25-9-333 applies with respect to priority of the lien;
- (3) An assignment of a claim for wages, salary, or other compensation of an employee;
- (4) A sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose;
- (5) An assignment of accounts, chattel paper, payment intangibles, or promissory notes which is for the purpose of collection only;
- (6) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;
- (7) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;
- (8) A transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but G.S. 25-9-315 and G.S. 25-9-322 apply with respect to proceeds and priorities in proceeds;
- (9) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;

- (10) A right of recoupment or setoff, but:
  - a. G.S. 25-9-340 applies with respect to the effectiveness of rights of recoupment or setoff against deposit accounts; and
  - b. G.S. 25-9-404 applies with respect to defenses or claims of an account debtor;
- (11) The creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:
  - a. Liens on real property in G.S. 25-9-203 and G.S. 25-9-308;
  - b. Fixtures in G.S. 25-9-334;
  - c. Fixture filings in G.S. 25-9-501, 25-9-502, 25-9-512, 25-9-516, and 25-9-519; and
  - d. Security agreements covering personal and real property in G.S. 25-9-604;
- (12) An assignment of a claim arising in tort, other than a commercial tort claim, but G.S. 25-9-315 and G.S. 25-9-322 apply with respect to proceeds and priorities in proceeds;
- (13) An assignment of a deposit account in a consumer transaction, but G.S. 25-9-315 and G.S. 25-9-322 apply with respect to proceeds and priorities in proceeds; or
- (14) The creation, perfection, priority, or enforcement of any lien on, assignment of, pledge of, or security in, any revenues, rights, funds, or other tangible or intangible assets created, made, or granted by this State or a governmental unit in this State, including the assignment of rights as secured party in security interests granted by any party subject to the provisions of this Article to this State or a governmental unit in this State, to secure, directly or indirectly, any bond, note, other evidence of indebtedness, or other payment obligations for borrowed money issued by, or in connection with, installment or lease purchase financings by, this State or a governmental unit in this State. However, notwithstanding this subdivision, this Article does apply to the creation, perfection, priority, and enforcement of security interests created by this State or a governmental unit in this State in equipment or fixtures. (1965, c. 700, s. 1; 1975, c. 862, s. 7; 2000-169, s. 1; 2001-218, s. 2.)